

## APPENDICES

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*Figure 27. Burton K. Wheeler House, Butte.*

## **ELIGIBLE AND INELIGIBLE CLG ACTIVITIES**

Contact the SHPO before proceeding with activities and projects that are not clearly eligible.

### **ELIGIBLE ACTIVITIES**

All activities outlined in the CLG Performance Standards, Subgrant Agreement, and Montana CLG Manual.

Public information, education, training, and technical assistance relating to federal, state, tribal, and local historic preservation activities for historic property owners, local officials, and the public.

Cooperation with SHPO, other CLGs, other federal, state, tribal, and local governments, organizations, and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.

Architectural, historical, archeological surveys, and oral histories relating to properties eligible for or listed in the National Register of Historic Places or the National Historic Landmarks Survey.

Survey inventory maintenance and enhancement.

Historic contexts research and development.

National Register nominations preparation, revision, and review.

Staff work for historic preservation commissions and subgrant management.

Local landmarks legislation designation.

Preservation legislation development and amendments.

Preservation plans preparation, amendments, and implementation.

Historic preservation award programs.

Preservation information publications.

Preservation information audio, video, and digital products and presentations.

Educational activities relating to historic properties.

Exhibits relating to historic properties.

Historic and prehistoric property survey.

Historic property inventory publications.

Walking/driving tours development and publications featuring historic properties.

Training for Commission members and staff.

Architectural drawings and specifications of historic properties.

Building condition assessments, reuse feasibility studies, plans, and specifications on properties individually listed or contributing in historic districts.

Preservation easements on properties individually listed or contributing in historic districts. A CLG covenant is required.

Rehabilitation or restoration of properties individually listed or contributing in historic districts. A CLG covenant is required.

Acquisition of properties individually listed or contributing in historic districts. A CLG covenant is required.

Collaboration with other CLGs in preservation projects. CLG subgrants may be combined if approved by SHPO.

Other preservation-related project must be approved by SHPO before undertaking the activity to ensure it is allowed under the Historic Preservation Fund guidelines.

### **INELIGIBLE ACTIVITIES**

Federal agency responsibilities and mitigation activities.

Construction grants to churches or church-owned properties.

Archeological investigations not related to National Register or that destroys or impairs a historic property's significance.

Routine maintenance or major reconstruction.

Genealogy.

Museum work.

Salvage.

Fundraising, raffles, etc.

Educational materials, exhibits, and tours that do not relate to historic or prehistoric properties.

Lobbying - Commission members and local Historic Preservation Officers are prohibited from lobbying. Instead Commission members and local Historic Preservation Officers may provide educational information, materials, and testimony.

36 federal categories of "unallowable" activities and costs. Contact SHPO if you have questions.

## LOCAL GOVERNMENT CERTIFICATION AGREEMENT

Pursuant to the provisions of the National Historic Preservation Act, as amended (16 USC 470 et seq.), to applicable federal regulations (36 CFR 61), state statutes MCA 76-2-301 and MCA 76-2-321, the Montana Certified Local Government Manual, and **insert proper name of local government** agrees to:

1. Enforce appropriate legislation for the designation and protection of historic properties as per 16 USC 470 et seq., 36 CFR 61, MCA 22-3-421 through 22-3-442 (Montana State Antiquities Act), and **insert local ordinance or resolution**.
2. Maintain an adequate and qualified historic preservation Commission composed of at least five (5) professional and lay members. (**list membership and terms**).
3. Maintain a system for the survey and inventory of historic properties using MT SHPO forms, standards, and procedures.
4. Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register, as mandated by MCA 2-3-101 et seq.
5. Adhere to all federal requirements for the Certified Local Government Program.
6. Adhere to requirements outlined in the Montana Certified Local Government Manual issued by the Montana State Historic Preservation Office.

Upon its designation as a Certified Local Government, **insert name of local government**, shall be eligible for all rights and privileges of a Certified Local Government specified in the Act, federal procedures, and procedures of Montana. These rights include eligibility to apply for available Certified Local Government grant funds in competition only with other certified local governments.

### LOCAL GOVERNMENT

\_\_\_\_\_  
Chief Elected Local Official

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Date

### STATE GOVERNMENT

\_\_\_\_\_  
SHPO or Designee

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Date

# CERTIFICATION APPLICATION CHECKLIST

## Montana CLG Certification Application Checklist

City or County:

Date submitted to State:

Jurisdiction:

Date approved by State:

1. Applicant meets the federal definition of local government and has authority to enforce acceptable legislation for the designation and protection of historic properties. ☐
2. Applicant has established a historic preservation Commission consisting of \_\_\_\_\_ members. This meets state procedure requirements for number of members.

There are \_\_\_\_\_ lay members.

There are \_\_\_\_\_ professional members qualified in the fields of \_\_\_\_\_

This meets state procedure requirements for professional membership. ☐

3. All Commission members have a demonstrated, positive interest, competence, or knowledge in historic preservation. ☐
4. Professional members of the Commission have been appointed to the extent available in the community, and we have reviewed resumes that document professional qualifications acceptable under the Secretary of the Interior's Historic Preservation Professional Qualification Standards. If not, the application satisfactorily documented an adequate search for the requisite professional members and how it will obtain access to expertise when needed. ☐
5. The role and responsibilities of the local government have been specified in detail in the enclosed agreement, including:
  - A. The four basic responsibilities:
    1. Enforcing federal, state, and local legislation of the designation and protection of historic resources. ☐
    2. Maintaining a system for survey and inventory of historic properties. ☐
    3. Providing for adequate public participation in the historic preservation program. ☐
    4. Reviewing National Register nominations through a qualified local Commission. ☐
  - B. Additional responsibilities:
    1. Required of all CLGs in Montana
      - a. Maintain adequate financial management systems. ☐
      - b. Adhere to all requirements of the Historic Preservation Fund Grants Manual. ☐
      - c. Adhere to public participation mandates of MCA 2-3-101 et seq. ☐
      - d. Adhere to any requirements mandated by Congress regarding use of federal historic preservation funds. ☐

e. Adhere to requirements outlined in the Montana Certified Local Government Manual issued by the State Historic Preservation Office. ☐

2. Requirements specific to this CLG (if any stipulated).

6. The CLG contact person, including title/position, mailing address, telephone number, fax number, and email address:

7. The Certification Agreement has been signed by SHPO and the Chief Elected Local Official: ☐

8. Any other information relevant to this application:

STATE REVIEWER:

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Signature

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Name and Title

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Date

# MODEL CERTIFIED LOCAL GOVERNMENT ORDINANCE

COMMISSION RESOLUTION No. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE BOARD OF COMMISSIONERS OF  
\_\_\_\_\_ COUNTY CREATING AND ESTABLISHING A COMMISSION TO BE KNOWN AS THE  
\_\_\_\_\_ HISTORIC PRESERVATION COMMISSION AND PROVIDING FOR  
APPOINTMENT AND QUALIFICATION OF MEMBERS, DUTIES AND RESPONSIBILITIES OF THE  
HISTORIC PRESERVATION COMMISSION, APPOINTMENT AND DUTIES OF THE LOCAL HISTORIC  
PRESERVATION OFFICER.

WHEREAS, the Board of Commissioners of \_\_\_\_\_ County find that it appears to be in the best interests of the citizens of the County of \_\_\_\_\_ to create and establish a Historic Preservation Commission:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF \_\_\_\_\_:

Section 1. That the Board of Commissioners of \_\_\_\_\_ County, by this joint resolution, hereby create and establish the \_\_\_\_\_ Historic Preservation Commission pursuant to the following terms and conditions:

A. DEFINITIONS: \_\_\_\_\_

B. PURPOSE AND INTENT: To provide for an appointed board of citizens of \_\_\_\_\_ County to preserve and develop the unique historical, governmental and environmental qualities of \_\_\_\_\_ County by establishing a local historic preservation program, to integrate historic preservation into local planning and decision-making processes, to participate fully in state and federal planning, and to provide for identification, evaluation and protection of historic and prehistoric resources within \_\_\_\_\_ County.

This program is intended to promote the public interest and general welfare by:

- (1.) Recognizing the uniqueness and visual character of the area by encouraging historic preservation activities;
- (2.) Promoting public appreciation and education by encouraging greater knowledge, awareness and understanding of the area's cultural history;
- (3.) Promoting heritage tourism, as a benefit to the local economy, by identifying and protecting the area's significant historical and cultural values;
- (4.) Encouraging the integration of historic preservation into private, local, state and federal decision-making processes having the potential to affect prehistoric and historic properties within the jurisdiction of \_\_\_\_\_ County;
- (5.) Recognizing the historical importance of \_\_\_\_\_ County and carrying that historical importance forward into the future;
- (6.) Recognizing the cultural significance of \_\_\_\_\_ County as an area of human habitation and/or migration and the circumstances surrounding these historic and prehistoric activities,

This program is also intended to seek state and federal government recognition of \_\_\_\_ County's commitment to historic preservation by participating in the Certified Local Government Program, (established by Section 101(c) of the National Preservation Act, as amended, (16 USC 470 et seq.).

- C. OBJECTIVE: The objective of \_\_\_\_\_ County Historic Preservation Resolution is to establish a local Historic Preservation Commission to promote the preservation of historic and prehistoric sites, structures, objects, buildings and districts by addressing historic preservation issues at the local level and integrating them into local planning, and state and federal decision-making processes. The historic preservation program will include the identification, evaluation and protection of historic and prehistoric resources within \_\_\_\_\_ County, as well as providing general information and education about these resources.
- D. SCOPE: The \_\_\_\_\_ County Historic Preservation Commission shall serve in an advisory capacity to the \_\_\_\_\_ County Commissioners, \_\_\_\_\_ County Planning Board, \_\_\_\_\_ Zoning Board and other pertinent bodies or organizations.
- E. COMMISSION MEMBERS: The \_\_\_\_\_ County Historic Preservation Commission shall consist of no fewer than five (5) members with a demonstrated interest, competence or knowledge in historic preservation. The County Commissioners shall jointly appoint if available three (3) Commission members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology or other historic preservation related disciplines such as cultural geography or cultural anthropology to the extent that such professional expertise is available in the community.
- F. APPOINTMENT AND TERMS: Terms of office for the Historic Preservation Commission members shall be, upon enactment of this resolution, for two years. The original board shall be appointed in divided terms: the majority shall be appointed to one year terms and the minority shall be appointed for two year terms. The number of consecutive terms served by any one member will not be limited.
- G. LOCAL HISTORIC PRESERVATION OFFICER: The \_\_\_\_\_ County Commission will appoint a local Historic Preservation Officer, who may be employed by the appropriate County department. The Preservation local Historic Preservation Officer must have a demonstrated interest, competence or knowledge in historic preservation with professional expertise in history, planning, archaeology, architecture, architectural history, historic archaeology or a closely related field to the extent that such professional expertise is available to the community.
- (1.) Duties of the local Historic Preservation Officer include coordinating local historic preservation programs, helping in the development of local surveys, projects and historic preservation planning documents, advising and providing assistance to the local Historic Preservation Commission, government agencies and the public, and ensuring to the extent practicable, that the duties and responsibilities delegated by this ordinance are carried out.
- H. MEETINGS: The Historic Preservation Commission shall conduct a minimum of one (1) regularly scheduled meetings each month, except that the chairperson may cancel any meeting if there are no matters to be considered or schedule special meetings when such meetings are necessary to carry out the provisions of this resolution.
- Special meetings of the Commission may be called by the chairperson or by two [2] members. All meetings shall be held in public and in accordance with the Montana State Open Meeting law. Notice of the meetings should be calculated to reach all interested and affected members of the community in sufficient time to enable them to participate meaningfully, through circulation, radio public service announcements, news releases to local news media or any other method deemed necessary and appropriate. All written or taped minutes, reports and case decisions shall be available to the public.
- The Historic Preservation Commission shall establish by-laws conforming to the guidelines set forth in the Montana Certified Local Government Manual.
- I. POWERS AND DUTIES: The \_\_\_\_\_ County Historic Preservation Commission shall:

- (1.) Maintain a system for the survey and inventory of historic and prehistoric properties. This information shall be available to the public. The Commission shall withhold information about the location, character or ownership of historic or prehistoric resources if that disclosure may (a) cause a significant invasion of privacy, (b) risk harm to the resource, or (c) impede the use of a traditional religious site by practitioners (Section 304 of the National Preservation Act, as amended, 16 USC 470 et seq.);
- (2.) Use the "National Register of Historic Places Criteria for Evaluation" for local designation of historic and prehistoric properties;
- (3.) Review and participate in all proposed National Register nominations within \_\_\_\_\_ County according to Montana Certified Local Government Manual;
- (4.) Encourage public participation while assisting with the enforcement of appropriate State and local Legislation concerning historic preservation having the potential to affect prehistoric and historic properties within the jurisdiction of \_\_\_\_\_ County;
- (5.) Submit an annual report to the State Historic Preservation Office meeting the requirements established by the Montana Certified Local Government Manual;
- (6.) At least one (1) member shall attend at least one (1) training session each year, and provide to all historic preservation Commission members for review any orientation materials provided by the State Historic Preservation Office;
- (7.) Review and comment on land use proposals and planning programs related to historic and prehistoric resources;
- (8.) Consult with the City, State and Federal agencies on all applications, environmental assessments, environmental impact statements and other similar documents pertaining to historic districts, landmark sites and landmark or neighboring properties within \_\_\_\_\_ County. Comments by the Historic Preservation Commission will be sent by the local Historic Preservation Officer to the \_\_\_\_\_ County Commissioners;
- (9.) Review the local zoning regulations for their applicability to the characteristics of the proposed historic districts and make appropriate recommendations to the appropriate Town and County Zoning Commissions or Councils concerning any changes or modifications to the zoning regulations or zoning district boundaries;
- (10.) Assist with the preparation and adoption of Comprehensive Historic Preservation Plans and assist with the periodic updates of said plans;
- (11.) Provide information, advice and guidance, upon request by property owners, as to the restoration, rehabilitation, landscaping or maintenance of potentially historic buildings, sites, objects or structures. The Historic Preservation Commission may recommend voluntary design guidelines based upon the Secretary of the Interiors Standards for Historic Preservation, which will be made available to the public for assistance in preservation projects.
- (12.) Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic preservation, including potential tax incentives and federal and/or state grants when available.
- (13.) The Historic Preservation Office shall provide a copy of the annual report to the State Historic Preservation Office (provided for in Section 5 of this Resolution) to the \_\_\_\_\_ County Commissioners. The Historical Preservation Commission may in addition provide quarterly reports to the \_\_\_\_\_ County Commissioners to discuss their activity for the past quarter. Minutes of Commission meetings and any other information deemed necessary may be appended to the quarterly reports.

- (14.) Undertake any actions necessary to assure compliance with federal and state guidelines regarding the Certified Local Government program.

J. SEVERABILITY CLAUSE: If any section, subsection, sentence, clause, phrase or word of the Resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution, and the remainder of the Resolution will remain in force and effect.

Signed on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ County Commission:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attest  
Clerk and Recorder

## **PRESERVATION PLANNING**

For preservation to be effective, it must be fully incorporated into a community's planning and decision-making process. Montana Code Annotated (MCA 76-2) empowers communities to make plans and informed decisions in a timely manner, rather than during a crisis, which results in enhanced preservation of historic and cultural resources. Preservation planning is a process that identifies, evaluates, registers, and treats historic properties in a logical order.

### **Preservation Planning Principles**

- Important historic properties cannot be replaced if they are destroyed. Preservation planning provides for conservative use of these properties, preserving them in place and avoiding harm when possible, and altering or destroying properties only when necessary.
- If planning for the preservation of historic properties is to have positive effects, it must begin before the identification of all significant properties has been completed. To make responsible decisions about historic properties, existing information must be used to the maximum extent and new information must be acquired as needed.
- Preservation planning includes public participation. The planning process should provide a forum for open discussion of preservation issues. Public involvement is most meaningful when it is used to assist in defining values of properties and preservation planning issues, rather than when it is limited to review of decisions already made. Early and continuing public participation is essential to the board acceptance of preservation planning decisions.

### **Secretary of the Interior's Standards for Preservation Planning**

Standard I. Preservation Planning Establishes Historic Contexts

Standard II. Preservation Planning Uses Historic Contexts To Develop Goals and Priorities for the Identification, Evaluation, Registration, and Treatment of Historic Properties

Standard III. The Results of Preservation Planning Are Made Available for Integration Into Broader Planning Processes.

### **Preservation Planning Process (NPS 2000)**

1. The preservation planning process is innovative, flexible, and carefully designed to respond to the scale, audience, and needs of the community.
2. Preservation planning involves the public in plan development, implementation, and revision, and tailors and approach to public participation that is appropriate for the varying identities and roles of the plan-maker and community.
3. Preservation planning assesses the status of the full range of historic and cultural resources in the planning area, or that are affected by the plan-making entity, and examines the factors that affect the resources and their preservation.
4. Preservation planning uses historic contexts and, as appropriate, other special planning studies to help support conclusions and findings in the plan, to help identify critical issues, and to develop goals and priorities for the identification, evaluation, registration, and treatment of historic properties.
5. Preservation planning establishes goals and objectives that address the preservation needs of historic and cultural resources in the planning area, as well as the critical issues, threats, and opportunities facing those resources.
6. Preservation planning produces a preservation plan that documents the findings and conclusions reached during the planning process, and that is distributed to its intended audience and others.
7. Preservation planning is timely and dynamic, accommodating change, and providing for revision and updating when needed.

8. The preservation plan is understandable and usable by its intended audience.
9. The preservation plan explains how it was developed and by whom.
10. The preservation plan describes historic and cultural resources in the planning area and explains the issues that affect them and their preservation.
11. The preservation plan sets forth clear goal statements and provides guidance for implementation.
12. The preservation plan has a specific and explicitly stated time frame, after which it is reaffirmed, substantially revised, or a completely new plan is developed.
13. The preservation plan's level of technical detail and its format, length, and appearance are guided by the extent to which these will serve the plan's purpose and the needs of its audience.
14. The preservation plan is implemented.
15. Preservation planning, the plan, and plan implementation are integrated and coordinated with other planning and decision-making processes in the community.
16. Preservation plan implementation has access to realistic strategies and legally sound tools that are appropriate for achieving plan goals and policies.
17. Preservation plan implementation includes ongoing evaluation, monitoring, and review of changing conditions and progress toward achievement of plan goals and policies.

### **Historic Preservation Element of the Local Comprehensive Plan**

Five steps, created by the Georgia State Historic Preservation Office, outline the process a community should follow in developing a comprehensive historic preservation plan. The process incorporates the Standards for Preservation Planning.

#### **A Model Community Preservation Plan**

- I. Identification of Local Historic Properties
  - a. Preliminary area analysis
  - b. Outline of local developmental history
  - c. Statement of unique or distinctive aspects of local prehistory, history and historic properties
  - d. Field survey of historic properties (optional)
- II. Evaluation of Current Trends and Influences on Historic Preservation
  - a. Analysis of population, economic, land use, housing, transportation, and other change in the community
  - b. Analysis of opportunities for preservation
  - c. Analysis of threats to preserving local historic properties
- III. Community Consensus on Goals and Priorities for Preservation of Historic Properties (include elected officials, community leaders, preservation organizations, special interest groups, historic neighborhoods, business leaders, major institutions, and civic organizations)
- IV. Identification of Tools, Strategies, and Actions Needed to Achieve Community Goals
  - a. Public awareness
  - b. Field survey of historic properties, if needed
  - c. Evaluation and designation
  - d. Legal and regulatory protection
  - e. Financial incentives
  - f. Community development, downtown or neighborhood revitalization program

## V. Action Plan and Implementation

### FEDERAL LEGISLATION

<http://www.cr.nps.gov/linklaws.htm>.

- 1906 American Antiquities Act of 1906, Public Law 59-209, 16 USC 431-433.
- 1935 Historic Sites Act of 1935, Public Law 74-292, 49 USC 303.
- 1935 Historic Sites, Buildings, and Antiquities Act, 16 USC 461-462, 464-467.
- 1949 National Trust for Historic Preservation, 63 Stat. 927, 16 USC 468.
- 1949 Federal Property and Administrative Services Act, as amended, Public Law 63 Stat. 385, 40 USC 484(k)(3) and (4).
- 1960 Reservoir Salvage Act, as amended, 16 USC 469-469c.
- 1965 Land and Water Conservation Fund Act Amendments of 1965, Public Law 94-422, 16 U.S.C. 4601-41976.
- 1966 National Historic Preservation Act of 1966, Public Law 89-665, 16 USC 470.
- 1966 Department of Transportation Act of 1966, Public Law 89-670, 49 USC 303 (Declaration of Purpose & Section 4(f)).
- 1969 National Environmental Policy Act (NEPA), Public Law 91-190, 42 USC 4321-4347 (1970).
- 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 19 USC 2601.
- 1972 Surplus Real Property Act, 1972 Amendment to the Federal Property and Administrative Services Act of 1949, Public Law 92-362, 40 USC 484(k)(3).
- 1972 Coastal Zone Management Act, as amended, 16 USC 1451-1456.



*Figure 28. Miles City Waterworks, Miles City.*

- 1974 Archeological and Historic Preservation Act of 1974, Public Law 93-291, 16 USC 469-469c-2.
- 1974 Department of Transportation Act, Section 4(j), as amended, Public Law 89-670, 49 USC 5561-5567.
- 1976 Tax Reform Act of 1976 (See Tax Reform Act of 1986).
- 1976 Public Buildings Cooperative Use Act, 40 USC 601a.
- 1976 Copyright Act, 17 USC 101 et seq. (1988 and Supp. V 1993).
- 1978 American Indian Religious Freedom Act, as amended, 42 USC 1996 and 1996a.
- 1979 Archeological Resources Protection Act (ARPA), Public Law 96-96, 16 USC 470aa-mm.
- 1980 National Historic Preservation Act Amendments of 1980, Public Law 96-515.

- 1982 Freedom of Information Act, 5 USC 552
- 1986 Internal Revenue Code of 1986, Certified Rehabilitations. Section 47 and 48(g).
- 1986 Internal Revenue Code of 1986, Qualified Conservation Contributions, Section 170(h).
- 1987 Abandoned Shipwreck Act, Public Law 100-298, 43 USC 2101-2106.
- 1988 Archeological Resources Protection Act Amendments of 1988, Public Law 100-555 and 100-588.
- 1990 Native American Graves Protection and Repatriation Act, as amended (NAGPRA), Public Law 101-601, 25 USC 3001 et seq.
- 1990 Americans With Disabilities Act (ADA), 42 USC 12204.
- 1990 Internal Revenue Code of 1990 as amended, Rehabilitation Credit, 26 USC 47.
- 1991 Intermodal Surface Transportation Efficiency Act, as amended, 23 USC 101(a)(35), 23 USC 101 note, and 23 USC 109(b)(c) and (p).
- 1992 National Historic Preservation Act Amendments of 1992, Public Law 102-575.
- 1993 Amendments to National Historic Preservation Act, 16 USC 470 et seq.
- 1996 American Battlefield Protection Act, 16 USC 69k.

## STATE LEGISLATION

[http://data.opi.state.mt.us/bills/1999/mca\\_toc/index.htm](http://data.opi.state.mt.us/bills/1999/mca_toc/index.htm).

- State Antiquities Act, Montana Code Annotated (MCA) 22-3-421 through 442.
- CLG Enabling, MCA 76-2-301.
- CLG Enabling, MCA 76-2-321.
- Public Participation in Governmental Operations, MCA 2-3-101 et seq.
- Open Meeting, MCA 2-3-201 et seq.
- Interlocal Agreement, 7-11-101 et seq.
- Tax Credit for Preservation of Historic Buildings, MCA 15-31-151.
- Trespass Law, MCA 70-16-301 - 302, 45-6-201.



*Figure 29. Rialto Theater, Deer Lodge.*

## FEDERAL REGULATIONS

<http://www.cr.nps.gov/linklaws.htm>.

- 23 CFR 771 Environmental Impact & Related Procedures (Department of Transportation, Federal Highway Administration).
- 26 CFR 1 and 602 - Investment Tax Credit for Qualified Rehabilitation Expenditures (Internal Revenue Service).
- 26 CFR 1, 20, 25, and 602 - Income Taxes: Qualified Conservation Contributions (Internal Revenue Service).
- 36 CFR 60 National Register of Historic Places.

36 CFR 61 Procedures for Approved State, Tribal, and Local Government Historic Preservation Programs.

36 CFR 63 Determinations of Eligibility for Inclusion in the National Register of Historic Places.

36 CFR 65 National Historic Landmarks.

36 CFR 67 Historic Preservation Certification pursuant to the Tax Reform Act of 1986.

36 CFR 68 The Secretary of the Interior's Standards for the Treatment of Historic Properties.

36 CFR 73 World Heritage Convention.

36 CFR 78 Waiver of Federal Agency Responsibilities under Section 110 of National Historic Preservation Act, as amended.

36 CFR 79 Curation of Federally Owned and Administered Archeological Collections.

36 CFR 800 Protection of Historic and Cultural Properties (Section 106).

36 CFR 801 Historic Preservation Requirements of the Urban Development Action Grant Program.

36 CFR 810 Freedom of Information Act Regulations.

40 CFR 1500 Preparation of Environmental Impact Statements: Guidelines.

40 CFR 1500-1517 - Regulations of the Council of Environmental Quality.

41 CFR 101-17 - Assignment and Utilization of Space (General Services Administration, Public Buildings Service).

41 CFR 101-20 - Management of Buildings and Grounds (General Services Administration, Public Buildings Service).

43 CFR 3 Preservation of American Antiquities.

43 CFR 7 Protection of Archeological Resources (Applicable to Public and Indian Lands).

43 CFR 9 Intergovernmental Reviews of Department of the Interior's Programs and Activities.

43 CFR 10 Regulations Implementing the Native American Graves Protection and Repatriation Act.

43 CFR 12.1-12.830 Administrative Requirements and Cost Principles for Assisted Programs (also see OMB Circular A-102)

43 CFR 12.900-12.973 Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations (also see OMB Circular A-110).

43 CFR 17 Civil Rights, Subpart A, Implementing Title VI of the Civil Rights Act of 1964; and Subpart B, Implementing Section 504 of the Rehabilitation Act of 1973; and Subpart C, Implementing the Age Discrimination Act of 1975; and Subpart E, Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of the Interior.



*Figure 30. Skyline Chalet, Glacier National Park, Glacier County.*

## EXECUTIVE ORDERS

<http://www.cr.nps.gov/linklaws.htm>.

1971 Executive Order 11593, Protection and Enhancement of the Cultural Environment.

1982 Executive Order 12372, Intergovernmental Review of Federal Programs (See also 43 CFR 9).

1996 Executive Order 13006, Locating Federal Facilities On Historic Properties In Our Nation's Central Cities.

1996 Executive Order 13007, Indian Sacred Sites.

## **FEDERAL STANDARDS AND GUIDELINES**

<http://www.cr.nps.gov/linklaws.htm>.

Abandoned Shipwreck Guidelines.

Cultural Resource Management Guidelines, NPS-28.

Guidelines for Federal Agency Responsibilities, under Section 110 of the National Historic Preservation Act, as amended, 1998.

Historic Preservation Fund Grants Manual and Appendices, Certified Local Government, Chapter 9, 1997.

Preparation of Environmental Impact Statements: Guidelines.

Secretary of the Interior's Professional Qualification Standards, 1966

Secretary of the Interior's Professional Qualification Standards, 48 Federal Register 22716, 1983,

Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. 48 Federal Register 190:44716-44742, 1983.

Secretary of the Interior's Standards for Architectural and Engineering Documentation.

Secretary of the Interior's Standards for Rehabilitation, 36 FRC 67.

Secretary of the Interior's Standards for Preservation Planning.

Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preservation, Rehabilitation, Restoration, and Reconstruction, 1995.

Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the Standards for Historic Vessel Preservation Projects with Guidelines for Applying the Standards.

## **OFFICE OF BUDGET AND MANAGEMENT (OMB) CIRCULARS**

OMB Circular A-21 Cost Principles for Educational Institutions.

OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments.

ASBM C-10 A Guide for State, Local, and Indian Tribal Governments: Cost Principles and Procedures for Development Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government – Implementing Guide for Office of Management and Budget.

OMB Circular A-122 Cost Principles for Nonprofit Organizations.

OMB Circular A-123 Internal Control Systems.

OMB Circular A-133 Audits of Institutions of Higher Education and Other Nonprofit Organizations.

## **WORLD WIDE WEB RESOURCES**

Montana CLG List-Serve

[mtclg@lists.state.mt.us](mailto:mtclg@lists.state.mt.us).

Montana SHPO Community Preservation

<http://www.his.state.mt.us/shpo/communitypres.asp>.

Montana List of CLGs and HPOs

<http://www.his.state.mt.us/shpo/clglist.htm#Anaconda>.

Montana Code Annotated

[http://data.opi.state.mt.us/bills/1999/mca\\_toc/index.htm](http://data.opi.state.mt.us/bills/1999/mca_toc/index.htm).

Montana Historical Society

<http://www.his.state.mt.us>.

Montana Preservation Alliance

<http://www.preservemontana.org/index.html>.

Montana Natural Resources Information Service

<http://www.nris.state.mt.us>.

Montana Sanborn Fire Insurance Maps

<http://sanborn.umi.com>.

Montana State Library

<http://msl.state.mt.us>.

National Park Service (Links to the Past)

<http://www.cr.nps.gov>.

Certified Local Governments

<http://www2.cr.nps.gov/clg>.

Federal Historic Rehabilitation Tax Credit

<http://www2.cr.nps.gov/tps/tax/index.htm>.

Federal Historic Rehab Tax Credit Certificate Application Form

<http://www2.cr.nps.gov/tps/tax/hpcappl.htm>.

Federal Historic Rehab Tax Credit – IRS Assistance

<http://www2.cr.nps.gov/tps/tax/irs.htm>.

National Register of Historic Places

<http://www.cr.nps.gov/places.htm>.

National Register of Historic Places Nomination Form

<http://www.cr.nps.gov/nr/publications/forms.htm>.

National Register Bulletin 15 – How to Apply the NR Criteria for Evaluation

<http://www.cr.nps.gov/nr/publications/bulletins/nrb15>.

National Register Bulletin 16A – How to Complete a NR Nomination Form

<http://www.cr.nps.gov/nr/publications/bulletins/nrb16a>.

National Register Bulletin 39 - Researching a Historic Property

<http://www.cr.nps.gov/nr/publications/bulletins/nrb39>.

National Register Bulletins - all

<http://www.cr.nps.gov/nr/publications/bulletins.htm>.

National Register - Recent Listings (Weekly Updates)

<http://www.cr.nps.gov/nr/nrlist.htm>.

National Register Information System (Properties Listed in the NR)

<http://www.cr.nps.gov/nr/research/nris.htm>.

Preservation Briefs

<http://www2.cr.nps.gov/tps/briefs/presbhom.htm>.

Secretary's Standards for Rehabilitation

<http://www2.cr.nps.gov/tps/tax/reb.stand.htm>.

Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines

<http://www2.cr.nps.gov/tps/standguide/index.htm>.

[http://www.cr.nps.gov/local-law/arch\\_stnds\\_8\\_2.htm](http://www.cr.nps.gov/local-law/arch_stnds_8_2.htm).

Preservation Planning: [http://www.cr.nps.gov/local-law/arch\\_stnds\\_1.htm](http://www.cr.nps.gov/local-law/arch_stnds_1.htm)

Advisory Council on Historic Preservation

<http://www.achp.gov>.

American Cultural Resources Association

<http://www.acra-crm.org>.

American Institute of Architects

<http://www.aia.org>.

American Institute for Conservation of Historic and Artistic Works

<http://aic.stanford.edu>.

Code of Federal Regulations

<http://www.gpoaccess.gov/cfr/index.html>.

Congressional Directory

<http://www.gpoaccess.gov/cdirectory/index.html>.

Federal Register

<http://www.gpoaccess.gov/fr/index.html>.



Figure 31. Rocky Mountain Lab, Hamilton.

Government Printing Office (Federal Register notices)

<http://www.access.gpo.gov>.

Historic American Buildings Survey / Historic American Engineering Record (HABS/HAER):

<http://lcweb2.loc.gov/ammem/hhhtml>.

Library of Congress

<http://www.loc.gov>.

Library of Congress (current bills and reports)

<http://thomas.loc.gov>.

Michigan Land Use Institute

<http://www.mlui.org>.

National Alliance of Preservation Commissions

<http://www.sed.uga.edu/psa/programs/napc/napc.htm>.

National Association of Tribal Historic Preservation Officers

<http://www.nathpo.org>.

National Center for Preservation Technology and Training

<http://www.ncptt.nps.gov>.

NCSHPO

<http://www.ncshpo.org>.

National Conference of State Legislatures Data Base

[http://www.ncsl.org/programs/arts/statehist\\_intro.htm](http://www.ncsl.org/programs/arts/statehist_intro.htm).

National Transportation Enhancements Clearinghouse

<http://www.enhancements.org>.

National Trust for Historic Preservation

<http://www.nthp.org>.

National Park Service Cultural Programs

<http://www.cr.nps.gov/whatwedo.htm>

Official Government Websites via Library of Congress

<http://lcweb.loc.gov/global/executive/fed.html>.

Preservation Action

<http://www.preservationaction.org>

Public and Private Laws

<http://www.gpoaccess.gov/plaws/index.html>.

Reconnecting America

<http://www.reconnectingamerica.org>.

Renewal Alliance

<http://www.senate.gov/~santorum/real/real.html>.

Resources and Research Tools

<http://www.preservationdirectory.com>.

Scenic America

<http://www.scenic.org>.

Smart Growth America

<http://www.smartgrowthamerica.org>.

Smart Growth Online

<http://www.webmaster@smartgrowth.org>.

Society for American Archaeology

<http://www.saa.org>.

Society for Commercial Archeology

<http://www.sca-roadside.org>.

Society for the Preservation of Long Island Antiquities

<http://www.splia.org>.

Sprawl Watch Clearinghouse

<http://www.sprawlwatch.org>.

Stamp Out Sprawl

<http://www.stampoutsprawl.org>.



Surface Transportation Policy Project  
<http://www.istea.org>.  
The White House  
<http://www.whitehouse.gov>.

*Figure 32. Denio Milling Company Elevator, Hardin.*

## BOOK SHELF

- Beaumont, Constance E. *Smart States, Better Communities*. Washington, DC: National Trust for Historic Preservation, 1996.
- Duerksen, Christopher J. and Richard J. Roddewig. *Takings Law in Plain English*. 3<sup>rd</sup> ed. Chicago: Clarion Associates, Inc., 1998.
- Gelernter, Mark. *A History of American Architecture: Buildings in Their Cultural and Technological Context*. Hanover, NH: University Press of New England, 1999.
- Jester, Thomas C. ed. *Twentieth-Century Building Materials: History and Conservation*. National Park Service. NY: McGraw-Hill, Inc., 1995.
- Harris, Cyril M., ed. *Dictionary of Architecture and Construction*. 3<sup>rd</sup> ed. NY: McGraw-Hill, 2000.
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- Turabian, Kate L. *A Manual for Writers of Term Papers, Theses, and Dissertations*. 6<sup>th</sup> ed. Chicago: University of Chicago Press, 1996.
- Whiffen, Marcus and Frederick Koeper. *American Architecture Since 1780: A Guide to the Styles*. Rev. ed. Cambridge, MA: MIT Press, 1993.
- White, Bradford J. and Paul W. Edmondson. *Procedural Due Process in Plain English: A Guide for Preservation Commissions*. 2<sup>nd</sup> ed. Washington, DC: National Trust for Historic Preservation, 1994.

## NATIONAL PARK SERVICE CULTURAL RESOURCES PROGRAMS

<http://www.cr.nps.gov/NR/publications/bulletins/strevman/strevman13.htm>.

American Battlefield Protection Program  
Archeology and Ethnography Program  
Certified Local Governments Program  
Historic American Buildings Survey/Historic American Engineering Record  
Historic Landscape Initiative  
Historic Preservation Fund  
Museum Management Program  
National Historic Landmarks  
National Maritime Initiative  
National Register of Historic Places  
Park Historic Structures and Cultural Landscapes Program  
Park History Program  
Preservation Tax Incentives  
Technical Preservation Services Program  
Tribal Preservation Program

## 36 CFR 61.6 and 61.7 FEDERAL PROCEDURES FOR CLG PROGRAMS

Authority: 16 USC 470 et seq.

### Sec. 61.6 Certified Local Government Programs.

- (a) Each approved State program must provide a mechanism for certification (by the State Historic Preservation Officer and the Secretary) of local governments to carry out the purposes of the Act.
- (b) Each State Historic Preservation Officer (SHPO) must follow procedures that the Secretary approves for the certification of local governments. Each SHPO also must follow procedures for removal of certified local government (CLG) status for cause. A SHPO must submit any proposed amendment to its procedures to the Secretary for approval. The Secretary will act on each proposal in a timely fashion generally within 45 days of receipt.
- (c) When a SHPO approves a local government certification request in accordance with the State program's National Park Service (NPS)-approved certification process, the SHPO must prepare a written certification agreement between the SHPO and the local government. The certification agreement must list the specific responsibilities of the local government when certified. The SHPO must submit to the Secretary the written certification agreement and any additional information as is necessary for the Secretary to certify the local government pursuant to the Act and this part. If the Secretary does not disapprove the proposed certification within 15 working days of receipt, the Secretary has certified the local government.
- (d) Beyond the minimum responsibilities set out in the Act for all CLGs, the SHPO may make additional delegations of responsibility to individual CLGs. However, these delegations may not include the SHPO's overall responsibility derived from the Act or where law or regulation specifies.
- (e) The SHPO must ensure that each local government satisfies the following minimum requirements as conditions for certification. Each CLG must:
  - (1) Enforce appropriate State or local legislation for the designation and protection of historic properties. The State procedures must define what constitutes appropriate legislation, as long as:
    - (i) Designation provisions in such legislation include the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of the local government;
    - (ii) Protection provisions in such legislation include a local review process under State or local law for proposed demolitions of, changes to, or other action that may affect historic properties as paragraph (e)(1)(i) of this section describes; and
    - (iii) The legislation otherwise is consistent with the Act.
  - (2) Establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission). All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members.
    - (i) The State procedures must encourage certified local governments to include individuals who meet the "Secretary's Professional Qualifications Standards" among the membership of the Commission, to the extent that such individuals are available in the community.
    - (ii) The State procedures may specify the minimum number of Commission members who must meet the "Secretary's Professional Qualifications Standards." The State procedures may also specify which, if any, disciplines the Commission's membership must include from among those disciplines that the Standards describe. Membership requirements set by the State procedures for Commissions

must be cognizant of the needs and functions of Commissions in the State and subject to the availability of such professionals in the community concerned.

- (iii) Provided that the Commission is otherwise adequate and qualified to carry out the responsibilities delegated to it, the SHPO may certify a local government without the minimum number or types of disciplines established in State procedures, if the local government can demonstrate that it has made a reasonable effort to fill those positions, or that an alternative composition of the Commission best meets the needs of the Commission and of the local government.
- (iv) The SHPO must make available to each Commission orientation materials and training designed to provide a working knowledge of the roles and operations of Federal, State, and local historic preservation programs, and historic preservation in general.
- (3) Maintain a system for the survey and inventory of historic properties. The SHPO must ensure that such systems and the data that they produce are capable of integration into and are compatible with statewide inventories and (when and as appropriate) with State and local planning processes.
- (4) Provide for adequate public participation in the local historic preservation program as a whole. The SHPO must provide each CLG with appropriate guidance on mechanisms to ensure adequate public participation in the local historic preservation program including the process for evaluating properties for nomination to the National Register of Historic Places.
- (5) Satisfactorily perform the responsibilities delegated to it under the Act. The SHPO must monitor and evaluate the performance of each CLG according to written standards and procedures that the SHPO establishes. If a SHPO's evaluation of a CLG's performance indicates that such performance is inadequate, the SHPO must suggest in writing ways to improve performance. If, after a period of time that the SHPO stipulates, the SHPO determines that the CLG has not improved its performance sufficiently, the SHPO may recommend that the Secretary decertify the local government. If the Secretary does not object within 30 working days of receipt, the Secretary has approved the decertification.
- (f) Effects of certification include:
  - (1) Inclusion in the process of nominating properties to the National Register of Historic Places in accordance with sections 101 (c)(2)(A) and (c)(2)(B) of the Act. The SHPO may delegate to a CLG any of the responsibilities of the SHPO and the Review Board in processing National Register nominations as specified in 36 CFR part 60 (see also Sec. 61.4(b)(3)), except for the authority to nominate properties directly to the National Register. A CLG may make nominations directly to NPS only when the State does not have an approved program pursuant to Sec. 61.4.
  - (2) Eligibility to apply for a portion of the State's annual Historic Preservation Fund (HPF) grant award. Each State must transfer at least 10 percent of its annual HPF grant award to CLGs for historic preservation projects and programs in accordance with the Act and as Sec. 61.7 specifies.
- (g) The District of Columbia is exempt from the requirements of this section because there are no subordinated local governments in the District. If any other jurisdiction that section 301(2) of the Act defines as a State believes that its political subdivisions lack authorities similar to those of local governments in other States, and hence cannot satisfy the requirements for local government certification, it may apply to the Secretary for exemption from the requirements of this section.
- (h) Procedures for direct certification by the Secretary where there is no approved State program pursuant to Sec. 61.4. To the extent feasible, the Secretary will ensure that there is consistency and continuity in the CLG program of a State that does not have an approved State program.
  - (1) Where there is no approved State program, a local government wishing to become certified must apply directly to the Secretary.

- (2) The application must demonstrate that the local government meets the specifications for certification set forth in paragraph (e) of this section.
- (3) The Secretary will review certification applications under this paragraph (h) and take action in a timely fashion generally within 90 days of receipt.

**Sec. 61.7 Subgrants to Certified Local Governments.**

- (a) Each SHPO must transfer at least 10 percent of its annual Historic Preservation Fund (HPF) grant award to CLGs as subgrants for historic preservation projects and programs in accordance with the Act. In any year that the annual HPF State grant appropriation exceeds \$65,000,000, SHPOs must transfer one half of the amount over \$65,000,000 to CLGs according to procedures that the Secretary will establish.
- (b) Each CLG is eligible to receive funds from the 10 percent (or greater) CLG share of the State's total annual HPF grant award. However, the SHPO need not award funds to all CLGs.
- (c) Each SHPO must maintain and follow a procedure that the Secretary approves for the use and distribution of funds from the State's annual HPF grant award to CLGs to ensure that no CLG receives a disproportionate share of the allocation. The procedure will provide a clear basis for the funding decisions. The SHPO must submit any proposed amendment to its procedure to the Secretary for approval. The Secretary will respond to such a proposal in a timely fashion generally within 45 days of receipt.
- (d) Each SHPO must notify annually each CLG of its opportunity to apply for HPF funding as well as what is entailed in the application and project selection process.
- (e) Each CLG receiving an HPF grant award from the CLG share is a subgrantee of the State. The SHPO must ensure that each CLG adheres to all applicable grant conditions and government-wide and program specific requirements that the National Park Service issues. The SHPO may require specific uses of funds subgranted to CLGs. CLGs may not apply subgranted HPF monies as matching share for any other Federal grant.
- (f) Where there is no approved State program pursuant to Sec. 61.4, the Secretary will determine the method for allocating funds to CLGs in that State in accordance with the procedures set forth for the State in this section. To the extent feasible, the Secretary will ensure consistency and continuity in the funding allocation policy of the CLG program for a State that does not have an approved historic preservation program.

## CLG AS A CONSULTING PARTY UNDER 36 CFR 800

*Consulting with the Montana SHPO: Guidelines and Procedures for Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act*, Archeology Bulletin 21.

For the full text of Bulletin 21, please visit: <http://www.his.state.mt.us/shpo/archaeology/consultingwith.asp>.

### Requirements For Consultation With Others [including Certified Local Governments]

Once a federal agency has established that it has an undertaking and that the undertaking has the potential to affect historic properties, the agency needs to identify the appropriate SHPO and Tribal Historic Preservation Office, involve the public, and identify other consulting parties. Consultation with SHPO alone is not enough to ensure compliance with the National Historic Preservation Act, as amended (16 USC 470 et seq.) or 36 CFR 800. Under the provisions of 36 CFR 800, federal agencies are required to seek and consider the views of state agencies, other federal agencies, Tribal Historic Preservation Offices, local and certified local governments, local preservation groups, other interested parties, and the public in their consultation regarding information needs and possible effects to Historic Properties. Federal agencies are also required under Section 110 of the National Historic Preservation Act, as amended, to involve these same parties and the private sector in carrying out their preservation activities.

A number of Montana communities participate in the National Park Service Certified Local Government Program and have local Historic Preservation Officers and commissions with associated local preservation ordinances that should be consulted in the Section 106 process.

Under 36 CFR 800, federal agencies are required to consult with tribes whether or not a tribe has appointed a Tribal Historic Preservation Officer.

Consultation with the public is an essential part of the initiation of the consultation process, and continues throughout the Section 106 process at different steps. The Advisory Council on Historic Preservation provides detailed guidance regarding public consultation in *Public Participation in Section 106 Review: A Guide for Agency Officials* (1989.)

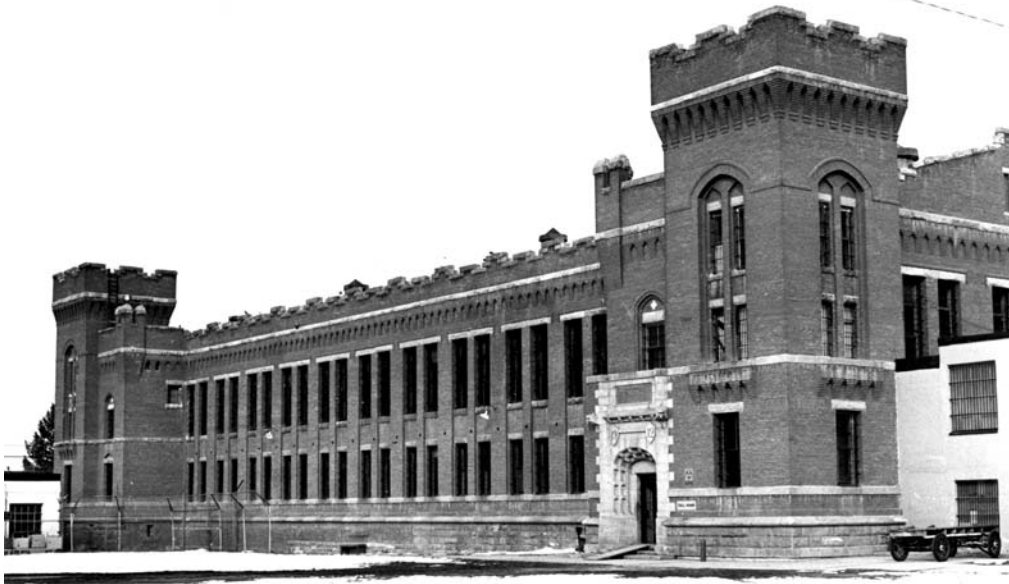


Figure 33. Territorial Prison, Deer Lodge.

# SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

1983 Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. Federal Register, 48[190]:44716-44742.

1995 Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. [http://www.cr.nps.gov/local-law/arch\\_stnds\\_8\\_2.htm](http://www.cr.nps.gov/local-law/arch_stnds_8_2.htm).

## Standards for Preservation

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

## Standards for Rehabilitation

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

### **Standards for Restoration**

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

## Standards for Reconstruction

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.



Figure 34. Northern Pacific Railroad Depot, Joliet.

## PROFESSIONAL QUALIFICATIONS STANDARDS

<http://www2.cr.nps.gov/laws/ProfQual83.htm>.

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

### Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

### Architecture

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

### Historic Architecture

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

### History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

## Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology, and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.



*Figure 35. Madison Buffalo Jump State Monument, Gallatin County.*

## MONTANA TRESPASS LAWS

[http://data.opi.state.mt.us/bills/1999/mca\\_toc/index.htm](http://data.opi.state.mt.us/bills/1999/mca_toc/index.htm) and *Rights and Responsibilities of Landowners and Recreationists*, May 1996.

Montana's trespass law states that a member of the public has the privilege to enter private land only:

With explicit permission of the landowner or his agent, or  
When the landowner has failed to post a no-trespassing notice.

The recreationist must obtain permission from the landowner before entering posted lands.

### **70-16-301. Definition of Recreation**

"Recreational purposes," as used in this part, includes hunting, fishing, swimming, boating, waterskiing, camping, picnicking, pleasure driving, biking, winter sports, hiking, touring or viewing cultural and historical sites and monuments, spelunking, or other pleasure expeditions.

### **Courtesy**

Before discussing the law in detail, the Department of Fish, Wildlife and Parks stresses its belief that no amount of legislative action or rulemaking can do more to promote harmony between landowners and recreationists than the individual actions of the parties concerned. Because the success or failure of the law hinges on the behavior of landowners and recreationists, we cannot overemphasize the need for cooperation and mutual respect.

### **45-6-201. Trespass Legislation**

This legislation states that a member of the public has the privilege to enter or remain on private land by the explicit permission of the landowner or his agent or by the failure of the landowner to post notice denying entry onto the land. The landowner may revoke the permission by personal communication. (For more detail see H.B. 911 from the 1985 session.) The law states that notice denying entry must consist of written notice or of notice by painting a post, structure or natural object with at least 50 square inches of fluorescent orange paint. In the case of a metal fencepost, the entire post must be painted. This notice must be placed at each outer gate and all normal points of access to the property and wherever a stream crosses an outer boundary line.

The law also extends the authority of game wardens to enforce the criminal mischief, criminal trespass and litter laws to all lands being used by the public for recreational purposes.

### **National Parks, Indian Reservations, and Wildlife Refuges**

Certain national parks, Indian reservations and wildlife refuges may have special rules. Specific information may be obtained from the headquarters of the park, reservation or refuge involved.

### **70-16-302. Restriction on Liability of Landowner**

A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property.

The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct.

### **45-6-203. Trespass Penalty**

A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

### **Trespass Penalty**

Entry to private property from adjacent state lands without permission of the landowner or his agent is an absolute liability offense. A violator is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both.

The activity that is the subject of this *Montana Certified Local Government Manual* has been financed in part with federal funds from the National Park Service, U.S. Department of the Interior. This program receives federal assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability, or age in its federally assisted programs.